

AMENDED IN SENATE MAY 13, 2008

AMENDED IN SENATE MAY 1, 2008

AMENDED IN SENATE MARCH 24, 2008

**SENATE BILL**

**No. 1185**

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**Introduced by Senator Lowenthal**

(Principal coauthor: Assembly Member Houston)

**(Coauthor: Senator Dutton)**

(Coauthors: Assembly Members Solorio and Walters)

February 12, 2008

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An act to amend Sections 66452.6, 66452.11, 66452.13, and 66463.5 of, to add Section 66452.21 to, and to amend and renumber Sections 66452.11 and 66452.12 of, the Government Code, relating to land use, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

SB 1185, as amended, Lowenthal. Land use: subdivision maps.

(1) The Subdivision Map Act establishes a statewide regulatory framework for controlling the subdividing of land. It generally requires a subdivider to submit, and have approved by, the city, county, or city and county in which the land is situated a tentative or vesting tentative map, which confers a vested right to proceed with development in substantial compliance with specified ordinances, policies, and standards. The act provides for the expiration of tentative or vesting tentative maps, after specified periods of time, and specifically extends by 12 months the expiration date of any tentative or vesting tentative map or parcel map for which a tentative or vesting tentative map has been approved that had not expired on May 15, 1996. This extension is in addition to any other extension of the expiration date provided for

in specified provisions of the act. Any legislative, administrative, or other approval by any local agency, state agency, or other political subdivision of the state that pertains to a development project included in a map that is extended is to be extended by 12 months under specified conditions.

This bill would extend the applicable expiration date to 12 months, as specified, for any vesting tentative map, in addition to a tentative map, generally, that has not expired as of the date adding these provisions. By adding to the procedures officials in counties, cities, and cities and counties must follow, this bill would impose a state-mandated local program.

(2) The Subdivision Map Act provides that when a tentative map is required, an approved or conditionally approved tentative map must expire 24 months after its approval or conditional approval, or after any additional time period as prescribed by local ordinance, not to exceed an additional 12 months. A subdivider may file with the appropriate legislative body, prior to the expiration of the approved or conditionally approved tentative map, an application to extend the time at which the map will expire for a period or periods not to exceed a total of 5 years.

This bill instead would allow the subdivider to file an application to extend the time at which the map will expire for a period or periods not to exceed a total of 6 years. By adding to the procedures officials in counties, cities, and cities and counties must follow, this bill would impose a state-mandated local program.

(3) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

(4) This bill would declare that it is to take effect immediately as an urgency statute.

Vote:  $\frac{2}{3}$ . Appropriation: no. Fiscal committee: yes.  
State-mandated local program: yes.

*The people of the State of California do enact as follows:*

1     *SECTION 1. Section 66452.6 of the Government Code is*  
2     *amended to read:*

3     66452.6. (a) (1) An approved or conditionally approved  
4     tentative map shall expire 24 months after its approval or

conditional approval, or after any additional period of time as may be prescribed by local ordinance, not to exceed an additional 12 months. However, if the subdivider is required to expend one hundred seventy-eight thousand dollars (\$178,000) or more to construct, improve, or finance the construction or improvement of public improvements outside the property boundaries of the tentative map, excluding improvements of public rights-of-way which abut the boundary of the property to be subdivided and which are reasonably related to the development of that property, each filing of a final map authorized by Section 66456.1 shall extend the expiration of the approved or conditionally approved tentative map by 36 months from the date of its expiration, as provided in this section, or the date of the previously filed final map, whichever is later. The extensions shall not extend the tentative map more than 10 years from its approval or conditional approval. However, a tentative map on property subject to a development agreement authorized by Article 2.5 (commencing with Section 65864) of Chapter 4 of Division 1 may be extended for the period of time provided for in the agreement, but not beyond the duration of the agreement. The number of phased final maps that may be filed shall be determined by the advisory agency at the time of the approval or conditional approval of the tentative map.

(2) Commencing January 1, 2005, and each calendar year thereafter, the amount of one hundred seventy-eight thousand dollars (\$178,000) shall be annually increased by operation of law according to the adjustment for inflation set forth in the statewide cost index for class B construction, as determined by the State Allocation Board at its January meeting. The effective date of each annual adjustment shall be March 1. The adjusted amount shall apply to tentative and vesting tentative maps whose applications were received after the effective date of the adjustment.

(3) "Public improvements," as used in this subdivision, include traffic controls, streets, roads, highways, freeways, bridges, overcrossings, street interchanges, flood control or storm drain facilities, sewer facilities, water facilities, and lighting facilities.

(b) (1) The period of time specified in subdivision (a), including any extension thereof granted pursuant to subdivision (e), shall not include any period of time during which a development moratorium, imposed after approval of the tentative map, is in

1 existence. However, the length of the moratorium shall not exceed  
2 five years.

3 (2) The length of time specified in paragraph (1) shall be  
4 extended for up to three years, but in no event beyond January 1,  
5 1992, during the pendency of any lawsuit in which the subdivider  
6 asserts, and the local agency which approved or conditionally  
7 approved the tentative map denies, the existence or application of  
8 a development moratorium to the tentative map.

9 (3) Once a development moratorium is terminated, the map  
10 shall be valid for the same period of time as was left to run on the  
11 map at the time that the moratorium was imposed. However, if the  
12 remaining time is less than 120 days, the map shall be valid for  
13 120 days following the termination of the moratorium.

14 (c) The period of time specified in subdivision (a), including  
15 any extension thereof granted pursuant to subdivision (e), shall  
16 not include the period of time during which a lawsuit involving  
17 the approval or conditional approval of the tentative map is or was  
18 pending in a court of competent jurisdiction, if the stay of the time  
19 period is approved by the local agency pursuant to this section.  
20 After service of the initial petition or complaint in the lawsuit upon  
21 the local agency, the subdivider may apply to the local agency for  
22 a stay pursuant to the local agency's adopted procedures. Within  
23 40 days after receiving the application, the local agency shall either  
24 stay the time period for up to five years or deny the requested stay.  
25 The local agency may, by ordinance, establish procedures for  
26 reviewing the requests, including, but not limited to, notice and  
27 hearing requirements, appeal procedures, and other administrative  
28 requirements.

29 (d) The expiration of the approved or conditionally approved  
30 tentative map shall terminate all proceedings and no final map or  
31 parcel map of all or any portion of the real property included within  
32 the tentative map shall be filed with the legislative body without  
33 first processing a new tentative map. Once a timely filing is made,  
34 subsequent actions of the local agency, including, but not limited  
35 to, processing, approving, and recording, may lawfully occur after  
36 the date of expiration of the tentative map. Delivery to the county  
37 surveyor or city engineer shall be deemed a timely filing for  
38 purposes of this section.

39 (e) Upon application of the subdivider filed prior to the  
40 expiration of the approved or conditionally approved tentative

1 map, the time at which the map expires pursuant to subdivision  
2 (a) may be extended by the legislative body or by an advisory  
3 agency authorized to approve or conditionally approve tentative  
4 maps for a period or periods not exceeding a total of ~~five~~ *six* years.  
5 The period of extension specified in this subdivision shall be in  
6 addition to the period of time provided by subdivision (a). Prior  
7 to the expiration of an approved or conditionally approved tentative  
8 map, upon an application by the subdivider to extend that map,  
9 the map shall automatically be extended for 60 days or until the  
10 application for the extension is approved, conditionally approved,  
11 or denied, whichever occurs first. If the advisory agency denies a  
12 subdivider's application for an extension, the subdivider may  
13 appeal to the legislative body within 15 days after the advisory  
14 agency has denied the extension.

15 (f) For purposes of this section, a development moratorium  
16 includes a water or sewer moratorium, or a water and sewer  
17 moratorium, as well as other actions of public agencies which  
18 regulate land use, development, or the provision of services to the  
19 land, including the public agency with the authority to approve or  
20 conditionally approve the tentative map, which thereafter prevents,  
21 prohibits, or delays the approval of a final or parcel map. A  
22 development moratorium shall also be deemed to exist for purposes  
23 of this section for any period of time during which a condition  
24 imposed by the city or county could not be satisfied because of  
25 either of the following:

26 (1) The condition was one that, by its nature, necessitated action  
27 by the city or county, and the city or county either did not take the  
28 necessary action or by its own action or inaction was prevented or  
29 delayed in taking the necessary action prior to expiration of the  
30 tentative map.

31 (2) The condition necessitates acquisition of real property or  
32 any interest in real property from a public agency, other than the  
33 city or county that approved or conditionally approved the tentative  
34 map, and that other public agency fails or refuses to convey the  
35 property interest necessary to satisfy the condition. However,  
36 nothing in this subdivision shall be construed to require any public  
37 agency to convey any interest in real property owned by it. A  
38 development moratorium specified in this paragraph shall be  
39 deemed to have been imposed either on the date of approval or  
40 conditional approval of the tentative map, if evidence was included

1 in the public record that the public agency which owns or controls  
2 the real property or any interest therein may refuse to convey that  
3 property or interest, or on the date that the public agency which  
4 owns or controls the real property or any interest therein receives  
5 an offer by the subdivider to purchase that property or interest for  
6 fair market value, whichever is later. A development moratorium  
7 specified in this paragraph shall extend the tentative map up to the  
8 maximum period as set forth in subdivision (b), but not later than  
9 January 1, 1992, so long as the public agency which owns or  
10 controls the real property or any interest therein fails or refuses to  
11 convey the necessary property interest, regardless of the reason  
12 for the failure or refusal, except that the development moratorium  
13 shall be deemed to terminate 60 days after the public agency has  
14 officially made, and communicated to the subdivider, a written  
15 offer or commitment binding on the agency to convey the necessary  
16 property interest for a fair market value, paid in a reasonable time  
17 and manner.

18 **SECTION 1.**

19 *SEC. 2.* Section 66452.11 of the Government Code, as added  
20 by Section 1 of Chapter 407 of the Statutes of 1993, is amended  
21 to read:

22 66452.11. (a) The expiration date of any tentative subdivision  
23 map or parcel map for which a tentative map has been approved  
24 that has not expired on the date that the act that adds this section  
25 becomes effective shall be extended by 24 months.

26 (b) The extension provided by subdivision (a) shall be in  
27 addition to any extension of the expiration date provided for in  
28 Section 66452.6, 66452.21, or 66463.5.

29 (c) Any legislative, administrative, or other approval by any  
30 state agency that pertains to a development project included in a  
31 map that is extended pursuant to subdivision (a) shall be extended  
32 by 24 months if this approval has not expired on the date that the  
33 act that adds this section becomes effective.

34 **SEC. 2.**

35 *SEC. 3.* Section 66452.11 of the Government Code, as added  
36 by Section 6 of Chapter 612 of the Statutes of 2007, is amended  
37 and renumbered to read:

38 66452.14 (a) Pursuant to the provisions of subparagraph (E)  
39 of paragraph (2) of subdivision (a) of Section 66427.1, the  
40 subdivider shall give written notice of the intent to convert 180

1 days prior to the termination of tenancy in the form outlined in  
2 subdivision (b), to each tenant of the subject property.

3 (b) The notice shall be as follows:

4  
5 “To the occupant(s) of

6 \_\_\_\_\_:  
7 (address)  
8

9 The owner(s) of this building, at (address), plans to convert this  
10 building to a (condominium, community apartment, or stock  
11 cooperative project). This is a notice of the owner’s intention to  
12 convert the building to a (condominium, community apartment,  
13 or stock cooperative project).

14 A tentative map to convert the building to a (condominium,  
15 community apartment, or stock cooperative project) was approved  
16 by the City on \_\_\_\_\_. If the City approves a final map, you  
17 may be required to vacate the premises, but that cannot happen  
18 for at least 180 days from the date this notice was served upon  
19 you.

20 Any future notice given to you to terminate your tenancy because  
21 of the conversion cannot be effective for at least 180 days from  
22 the date this notice was served upon you. This present notice is  
23 not a notice to terminate your tenancy; it is not a notice that you  
24 must now vacate the premises.

25  
26 \_\_\_\_\_  
27 (signature of owner or owner’s agent)  
28

29 \_\_\_\_\_  
30 (date)”

31 The written notices to tenants required by this section shall be  
32 deemed satisfied if such notices comply with the legal requirements  
33 for service by mail.

34 ~~SEC. 3.~~

35 *SEC. 4.* Section 66452.12 of the Government Code, as added  
36 by Section 7 of Chapter 612 of the Statutes of 2007, is amended  
37 and renumbered to read:

38 66452.15 (a) Pursuant to subparagraph (F) of paragraph (2)  
39 of subdivision (a) of Section 66427.1, the subdivider shall give  
40 written notice within five days after receipt of the subdivision

1 public report to each tenant of his or her exclusive right for at least  
2 90 days after issuance of the subdivision public report to contract  
3 for the purchase of his or her respective unit in the form outlined  
4 in subdivision (b).

5 (b) The notice shall be as follows:

6  
7 “To the occupant(s) of

8 \_\_\_\_\_:  
9 (address)

10  
11 The owner(s) of this building, at (address), have received the  
12 final subdivision report on the proposed conversion of this building  
13 to a (condominium, community apartment, or stock cooperative  
14 project). Commencing on the date of issuance of the subdivision  
15 public report, you have the exclusive right for 90 days to contract  
16 for the purchase of your rental unit upon the same or more  
17 favorable terms and conditions than the unit will initially be offered  
18 to the general public.

19  
20 \_\_\_\_\_  
21 (signature of owner or owner’s agent)

22 \_\_\_\_\_  
23 (date)”  
24

25 The written notices to tenants required by this section shall be  
26 deemed satisfied if the notices comply with the legal requirements  
27 for service by mail.

28 ~~SEC. 4.~~

29 *SEC. 5.* Section 66452.13 of the Government Code is amended  
30 to read:

31 66452.13. (a) The expiration date of any tentative or vesting  
32 tentative subdivision map or parcel map for which a tentative map  
33 or vesting tentative map has been approved, that has not expired  
34 on or before the date the act that adds this section becomes effective  
35 shall be extended by 12 months.

36 (b) The extension provided by subdivision (a) shall be in  
37 addition to any extension of the expiration date provided for in  
38 Section 66452.6, 66452.11, 66452.21, or 66463.5.

39 (c) Any legislative, administrative, or other approval by any  
40 state agency that pertains to a development project included in a



1 map that is extended pursuant to subdivision (a) shall be extended  
2 by 12 months if this approval has not expired on the date that the  
3 act that adds this section becomes effective. This extension shall  
4 be in addition to any extension provided for in Section 66452.11.

5 ~~SEC. 5.~~

6 *SEC. 6.* Section 66452.21 is added to the Government Code,  
7 to read:

8 66452.21. (a) The expiration date of any tentative or vesting  
9 tentative subdivision map or parcel map for which a tentative or  
10 vesting tentative map, as the case may be, has been approved that  
11 has not expired on the date that the act that adds this section  
12 becomes effective shall be extended by 12 months.

13 (b) The extension provided by subdivision (a) shall be in  
14 addition to any extension of the expiration date provided for in  
15 Section 66452.6, 66452.11, 66452.13, or 66463.5.

16 (c) Any legislative, administrative, or other approval by any  
17 state agency that pertains to a development project included in a  
18 map that is extended pursuant to subdivision (a) shall be extended  
19 by 12 months if this approval has not expired on the date that the  
20 act that adds this section becomes effective. This extension shall  
21 be in addition to any extension provided for in Section 66452.13.

22 ~~SEC. 6.~~

23 *SEC. 7.* Section 66463.5 of the Government Code is amended  
24 to read:

25 66463.5. (a) When a tentative map is required, an approved  
26 or conditionally approved tentative map shall expire 24 months  
27 after its approval or conditional approval, or after any additional  
28 period of time as may be prescribed by local ordinance, not to  
29 exceed an additional 12 months.

30 (b) The expiration of the approved or conditionally approved  
31 tentative map shall terminate all proceedings, and no parcel map  
32 of all or any portion of the real property included within the  
33 tentative map shall be filed without first processing a new tentative  
34 map. Once a timely filing is made, subsequent actions of the local  
35 agency, including, but not limited to, processing, approving, and  
36 recording, may lawfully occur after the date of expiration of the  
37 tentative map. Delivery to the county surveyor or city engineer  
38 shall be deemed a timely filing for purposes of this section.

39 (c) Upon application of the subdivider filed prior to the  
40 expiration of the approved or conditionally approved tentative

1 map, the time at which the map expires may be extended by the  
2 legislative body or by an advisory agency authorized to approve  
3 or conditionally approve tentative maps for a period or periods not  
4 exceeding a total of six years. Prior to the expiration of an approved  
5 or conditionally approved tentative map, upon the application by  
6 the subdivider to extend that map, the map shall automatically be  
7 extended for 60 days or until the application for the extension is  
8 approved, conditionally approved, or denied, whichever occurs  
9 first. If the advisory agency denies a subdivider's application for  
10 an extension, the subdivider may appeal to the legislative body  
11 within 15 days after the advisory agency has denied the extension.

12 (d) (1) The period of time specified in subdivision (a) shall not  
13 include any period of time during which a development  
14 moratorium, imposed after approval of the tentative map, is in  
15 existence. However, the length of the moratorium shall not exceed  
16 five years.

17 (2) Once a moratorium is terminated, the map shall be valid for  
18 the same period of time as was left to run on the map at the time  
19 that the moratorium was imposed. However, if the remaining time  
20 is less than 120 days, the map shall be valid for 120 days following  
21 the termination of the moratorium.

22 (e) The period of time specified in subdivision (a), including  
23 any extension thereof granted pursuant to subdivision (c), shall  
24 not include the period of time during which a lawsuit involving  
25 the approval or conditional approval of the tentative map is, or  
26 was, pending in a court of competent jurisdiction, if the stay of the  
27 time period is approved by the local agency pursuant to this section.  
28 After service of the initial petition or complaint in the lawsuit upon  
29 the local agency, the subdivider may apply to the local agency for  
30 a stay pursuant to the local agency's adopted procedures. Within  
31 40 days after receiving the application, the local agency shall either  
32 stay the time period for up to five years or deny the requested stay.  
33 The local agency may, by ordinance, establish procedures for  
34 reviewing the requests, including, but not limited to, notice and  
35 hearing requirements, appeal procedures, and other administrative  
36 requirements.

37 (f) For purposes of this section, a development moratorium shall  
38 include a water or sewer moratorium or a water and sewer  
39 moratorium, as well as other actions of public agencies that regulate  
40 land use, development, or the provision of services to the land,

1 including the public agency with the authority to approve or  
2 conditionally approve the tentative map, which thereafter prevents,  
3 prohibits, or delays the approval of a parcel map.

4 (g) Notwithstanding subdivisions (a), (b), and (c), for the  
5 purposes of Chapter 4.5 (commencing with Section 66498.1),  
6 subdivisions (b), (c), and (d) of Section 66498.5 shall apply to  
7 vesting tentative maps prepared in connection with a parcel map  
8 except that, for purposes of this section, the time periods specified  
9 in subdivisions (b), (c), and (d) of Section 66498.5 shall be  
10 determined from the recordation of the parcel map instead of the  
11 final map.

12 ~~SEC. 7.~~

13 *SEC. 8.* No reimbursement is required by this act pursuant to  
14 Section 6 of Article XIII B of the California Constitution because  
15 a local agency or school district has the authority to levy service  
16 charges, fees, or assessments sufficient to pay for the program or  
17 level of service mandated by this act, within the meaning of Section  
18 17556 of the Government Code.

19 ~~SEC. 8.~~

20 *SEC. 9.* This act is an urgency statute necessary for the  
21 immediate preservation of the public peace, health, or safety within  
22 the meaning of Article IV of the Constitution and shall go into  
23 immediate effect. The facts constituting the necessity are:

24 In order to permit cities, counties, and a city and county to  
25 preserve development applications that are set to expire and that  
26 cannot be processed presently due to prevailing adverse economic  
27 conditions in the construction industry, it is necessary that this act  
28 take immediate effect.